

Paper 1

Mail Stop Interference
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Filed: 15 December 2011

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

KJELL OLMARKER and BJÖRN RYDEVIK
Junior Party
(Patents 6,649,589 and 7,708,995),

v.

JUNMING LE, JAN VILCEK, PETER DADDONA,
JOHN GHRAYEB, DAVID KNIGHT,
and SCOTT SIEGEL,
Senior Party
(Application Nos. 10/227,488 and 10/665,971).

Patent Interference No. 105,842
(Technology Center 1600)

1 **DECLARATION - Bd.R. 203(b)¹**

2

3 **Part A. Declaration of interference**

4 An interference is declared (35 U.S.C. § 135(a)) between the above-identified
5 parties. Details of the application(s), patent (if any), reissue application (if any), count(s)

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 and claims designated as corresponding or as not corresponding to the count(s) appear
2 in Parts E and F of this DECLARATION.

3 **Part B. Judge managing the interference**

4 Administrative Patent Judge Sally Gardner Lane has been designated to manage
5 the interference. Bd. R. 104(a).

6 **Part C. Standing order**

7 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
8 DECLARATION. The STANDING ORDER applies to this interference.

9 **Part D. Initial conference call**

10 A telephone conference call to discuss the interference is set for **2:30p.m. on 1**
11 **March 2012** (the Board will initiate the call).

12 No later than **four business days** prior to the conference call, each party shall
13 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
14 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15 A sample schedule for taking action during the motion phase appears as Form 2
16 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to
17 the conference call and to agree on dates for taking action. A typical motion period
18 lasts approximately eight (8) months. Counsel should be prepared to justify any request
19 for a shorter or longer period.

20

Part E. Identification and order of the parties

Junior Party

Named Inventors: Kjell OLMARKER
Mölndal SWEDEN

Bjorn RYDEVIK
Göteborg SWEDEN

Involved Patents: 6,649,589, issued 18 November 2003, from application 09/743,852, filed 23 September 1999 under 35 U.S.C. § 371 from international application PCT/SE99/01671

USE OF CERTAIN DRUGS FOR TREATING NERVE ROOT INJURY

15 7,708,995, issued 04 May 2010, from application
16 11/521,093, filed 14 September 2006

USE OF TNF-ALPHA INHIBITORS FOR TREATING A NERVE DISORDER MEDIATED BY NUCLEUS PULPOSUS

Assignee: Sciaticon AB

Senior Party

Named inventors: JUNMING LE
Jackson Heights, NY

JAN VILCECK
New York, NY

PETER DADDONA
Menlo Park, CA

JOHN GHRAYEB
Downington, PA

DAVID KNIGHT

DAVID KNIGHT
Berwyn, PA

1 SCOTT SIEGEL
2 Westborough, MA
3
4 Involved Applications: 10/227,488, filed 23 August 2002
5
6 METHODS OF TREATING INFLAMMATION ASSOCIATED
7 WITH NEURODEGENERATIVE DISEASES WITH ANTI-
8 TNF α ANTIBODIES
9

10 10/665,971, filed 19 September 2003.

11 METHODS OF TREATING NEURODEGENERATIVE
12 INFLAMMATION WITH ANTI-TNF ALPHA ANTIBODIES
13
14

15 Assignee: Janssen Biotech, Inc.
16

17 The senior party is assigned exhibit numbers 1001-1999. The junior party is
18 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party
19 is responsible for initiating settlement discussions. SO ¶ 126.1.

20 **Part F. Count and claims of the parties**

21 Count 1

22 Claim 1 of Olmarker 6,649,589

23 or

24 Claim 1 of Olmarker 7,708,885

25 or

26 Claim 4 of Le 10/227,488

27 or

28 Claim 1 of Le application 10/665,971

29

1
2 The claims of the parties are:

3 Olmarker ('589): 1-39

4
5 Olmarker ('995): 1-13

6
7 Le ('488): 4, 7-10, 32, 33, 37, 53-58, 60-65, 85, 87, and 88

8
9 Le ('971): 1-7, 18-20, and 22-37

10
11 The claims of the parties which correspond to Count 1 are:

12 Olmarker ('589): 1-39

13
14 Olmarker ('995): 1-13

15
16 Le ('488): 4, 7-10, 32, 33, 37, 53-58, 60-65, 85, 87, and 88

17
18 Le ('971): 1-7, 18-20, and 22-37

19
20 The claims of the parties which do not correspond to Count 1, and therefore are not
21 involved in the interference, are:

22 Olmarker ('589): None

23
24 Olmarker ('995): None

25
26 Le ('488): None

27
28 Le ('971): None

29.

1 The parties are accorded the following benefit for Count 1:

2 Olmarker ('995)²: 10/225,237, filed 22 August 2002, which issued as US

3 Patent 7,115,557;

4

5 09/826,893, filed 16 April 2001, abandoned;

6 09/743,852, which was filed under 35 U.S.C. § 371
7 from international application PCT/SE99/01671, filed
8 23 September 1999;

9

10 Swedish application 9803710-4, filed 29 October
11 1998; and

12 13 Swedish application 9803276-6, filed 25 September
14 15 1998.

16

17 Le: 09/133,119³, filed 12 August 1998, issued as US
18 19 Patent 6,277,969;

20 21 08/570,674, filed 11 December 1995, abandoned;

22 23 08/324,799, filed 18 October 1994, issued as US
24 Patent 5,698,195;

25 26 08/192,102, filed 04 February 1994, issued as US
27 Patent 5,656,272;

28 29 08/192,861, filed 04 February 1994, issued as US
30 Patent 5,919,452;
31

² The involved Olmarker US Patent 6,649,589, is accorded the same earliest priority date of 23 September 1999, which is the filing date under 35 U.S.C. § 371 of international application PCT/SE99/01671.

³ The involved Le application no. 10/227,488 is a continuation of application no. 09/766,535, filed 18 January 2001, which issued as US Patent 6,991,791 and is a divisional of application no. 09/133,119. The involved Le application no. 10/665,971 is a divisional of application no. 09/756,398, which issued as US patent 6,835,823 and is a divisional of application no. 09/133,119.

1 08/192,093, filed 04 February 1994, issued as US
2 Patent 6,284,471;
3
4 08/010,406, filed 29 January 1993, abandoned;
5
6 08/013,413, filed 02 February 1993, abandoned;
7
8 07/943,852, filed 11 September 1992, abandoned;
9
10 07/853,606, filed 18 March 1992, abandoned;
11 07/670,827, filed 18 March 1991, now abandoned.
12
13
14

1 **Part G. Heading to be used on papers**

2 The following heading must be used on all papers filed in this interference, see
3 SO ¶ 106.1.1:

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Patent Interference No. 105,842
(Technology Center 1600)

Part H. Order form for requesting file copies

- 1 When requesting copies of files, use of SO Form 4 will greatly expedite
- 2 processing of the request. Please attach a copy of Parts E and F of this
- 3 DECLARATION with a hand-drawn circle around the patents and applications for which
- 4 a copy of a file wrapper is requested.

/Sally Gardner Lane/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER
Copy U.S. Patent 6,649,589
Copy U.S. Patent 7,708,995
Copy of claims of 10/655,971
Copy of claims of 10/227,488

cc (via overnight delivery):

Attorney for Olmarker:

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60 South Sixth Street
Minneapolis, MN 55440-1022

Attorney for Le:

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
Concord, MA 01742-9133